

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**JAMES TOMAS CALLAHAN,**

Petitioner,

v.

**MARK NOOTH.,**

Respondent.

**MOSMAN, J.,**

No. 2:12-cv-01333-SU

OPINION AND ORDER

On January 8, 2015, Magistrate Judge Sullivan issued her Findings and Recommendation [54], recommending that Petitioner's Writ of Habeas Corpus should be DENIED. Mr. Callahan objected [59] and Mr. Nooth responded [60].

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation and I ADOPT the F&R [54] as my own opinion.

IT IS SO ORDERED.

DATED this 25th day of February, 2015.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
United States District Judge